

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1690 OF 2022

Rajesh Mohan Chawhan

...Applicant

Versus

State Of Maharashtra

...Respondent

Mr. Vivek Arote i/b S. S. Gangakhedkar for the Applicant.

Ms. P. N. Dabholkar, APP, for the Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 27th SEPTEMBER 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R. No. 309 of 2019 registered with Shahapur Police Station, Dist - Thane for the offence punishable under sections 302, 460, 396, 412, 414 of Indian Penal Code (for short "IPC").

2. It is prosecution's case that on 20th July 2019 at about 8:15 a.m. when the complainant was at his residence Ms. Deepika came to his house and informed him that when she had been to the house of Suresh Nujaje, she noticed that both the hands and legs of Suresh

Nujaje were tied, she tried to call him or awake him under the perception that he might be slept or unconscious, but there was no response from him. After getting closure to the Suresh, she noticed wounds on his hands, legs and abdomen. Therefore, she rushed towards the informant and intimated the incident. Thereafter, informant and other persons from village went to the house of Suresh i.e. Om Bunglow. When they reached in the house of Suresh, they noticed that all the articles in the rooms of that Bungalow were lying scattered and Suresh was lying under wooden bed and his leg were tied with towel and both the hands were tied by red shirt. The complainant gave information about the said incident to the police. Police came to the incident spot. They checked Suresh. He was dead. The complaint was filed alleging that some unknown persons with an intention to commit theft / robbery entered the Bungalow and killed Suresh. In investigation, police arrested applicant and co-accused in connection with the present crime.

3. It is contention of learned counsel for the applicant that the allegations against the applicant are that at the time of dacoity applicant was present. The role attributed applicant that he has taken

away Gold chain, Silver bracelet and two rings from the deceased and the ornaments were handed over to mother, namely, Pushma for sale of same by distribution of the amount. During the commission of the alleged dacoity, learned counsel further submitted that in supplementary charge-sheet, the contrary stand is demonstrated alleging recovery of Aadhar Card and Pan Card from open space at the instance of applicant. Applicant is behind bar for more than two years. Hence, requested to allow the application.

4. Learned APP submitted that applicant was part of the group, who committed dacoity on Bungalow of deceased. Applicant has taken away gold ornaments of deceased. It was given to one lady Pushpa at the instance of applicant. Aadhar Card and Pan Card of deceased are recovered. It shows his involvement in the crime. There is *prima facie* case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. The role attributed to the applicant that, he has taken

away gold chain, silver bracelet and two rings from the deceased and the ornaments were handed over to the mother, namely, Pushpa for sale. It appears from record that total alleged robbed articles have been recovered from accused no-3. In supplementary charge-sheet, the role attributed to the applicant that, at the instance of applicant, Aadhar Card and Pan Card of deceased were recovered. It appears that the said documents are recovered from the open space that too after two years of the incident. No test identification parade of applicant is taken. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed. Yet trial has not commenced. It may take time to conclude the trial some of the co-accused have been released on bail.

7. Considering the above facts, further detention of applicant is not required.

8. In view of above, I pass following order.

ORDER

- (i) Applicant be enlarged on bail in Crime No. 309 of 2019 registered with Shahapur Police Station,

District – Thane, on executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witness or any person concerned with the case.
- (v) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)